

# DECISION



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THE COMPTROLLER GENERAL  
OF THE UNITED STATES

WASHINGTON, D.C. 20548

*Distinguishes by B-186643, Comp. Gen. 25, 1976*

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FILE: B-181284

DATE: MAR 16 1978

MATTER OF: Dr. Curtis W. Tarr - Reimbursement of  
apartment expense under Federal Travel  
Regulations

DIGEST: Chairman, Defense Manpower Commission,  
lives away from Washington, D.C., frequently  
travels to Washington on Commission business,  
and has rented apartment to avoid difficulty in  
obtaining transient accommodations. Chairman  
may be reimbursed on pro rata basis for rental  
expenses since apartment may be considered as  
"lodging" under 5 U.S.C. § 5701 and Federal  
Travel Regulations under appropriate circum-  
stances. See 52 Comp. Gen. 730.

This decision is rendered in response to a request dated July 17,  
1975, for an advance decision by Mr. David E. Hollar, an authorized  
certifying officer of the General Services Administration, under the  
provisions of 31 U.S.C. § 82d(1970). Mr. Hollar asks whether  
Dr. Curtis W. Tarr, Chairman, Defense Manpower Commission, may  
"be reimbursed on a days-worked basis for the apartment he is renting  
in lieu of a hotel, or whether this apartment is considered a second  
residence and he can receive no reimbursement." We are also asked  
to state at what rate Dr. Tarr should be paid if we determine he may be  
reimbursed lodging costs.

*But. L. 98-1-55*  
The Defense Manpower Commission was established by section  
701(c) of the Act of November 16, 1973, 87 Stat. 609. Section 704 of  
the Act provides, in pertinent part, that "Members of the Commission  
shall be reimbursed for travel, subsistence, and other necessary  
expenses incurred by them in the performance of their duties."

*87 Stat. 611*  
Dr. Tarr was appointed to the Commission and was elected chairman  
thereof in accordance with section 701(c) of the Act. Dr. Tarr travels  
to Washington, D.C., from Moline, Illinois, when the Commission meets,  
two or three times a month. While engaged in the actual performance of  
his duties as a member of the Commission, including travel time, he  
receives an amount equal to the daily rate paid a GS-18 under the General  
Schedule contained in section 5332 of title 5, United States Code.

When he was first appointed to the Commission, Dr. Tarr had a  
home in Arlington, Virginia, and an apartment in Moline, Illinois.  
When he attended Commission meetings, his residence was his home in  
Arlington, and he was not authorized per diem and travel expenses.

B-1  
B-181284

Dr. Tarr sold his home in Arlington and moved to a new home in Moline effective July 1, 1975. At that time he made arrangements to rent an apartment for \$220 per month in Washington, D. C., because he felt that he might not be able to obtain hotel rooms when he came to Washington intermittently on Commission business.

Dr. Tarr has requested reimbursement for the expense of the rental of the apartment for the nights he is in Washington on Commission business. As we initially noted, the authorized certifying officer is unsure as to whether Dr. Tarr may be reimbursed or whether the apartment should be considered a second residence, thereby precluding reimbursement.

Section 5701(4) of title 5, United States Code (1970), defines "per diem allowance" as "daily flat rate payment instead of actual expenses for subsistence and fees or tips to stewards and porters." "Subsistence" is defined, at section 5701(3), as "lodging, meals, and other necessary expenses for the personal maintenance and comfort of the traveler." While neither the statute nor the Federal Travel Regulations defines "lodging," we have ruled that the term includes hotel and motel rooms and apartments, houses, or trailers, whether furnished or unfurnished. 53 Comp. Gen. 730 (1973). The cited decision dealt with situations where individuals were assigned to temporary duty for long periods at locations where accommodations at hotels or motels are extremely limited. 52 Comp. Gen. at 731. The situation which obtains in Dr. Tarr's case is suitably analogous to allow the adoption of that definition in a case where an individual has numerous noncontiguous visits to one location and, as a convenience to himself, takes semi-permanent lodging for the entire period at a rate which perforce is equal to or less than that which would have been charged normally at a hotel or motel for daily charges. Accordingly, since Dr. Tarr's visits to Washington, D. C., are frequent and since he has established a formal residence outside the normal commuting distance, we do not consider Dr. Tarr's apartment to be a "second residence." Therefore, he is eligible for reimbursement of lodging costs while on Commission business in Washington.

Dr. Tarr has rented the apartment partly for his own convenience. Further, there is no precise method of determining beforehand to what extent he uses the apartment while concerned with Commission business. Therefore, he should be reimbursed for its use based on a days-worked

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basis in relation to the monthly rental. For computation purposes each month should be considered as a 30-day month.

**P.F. KELLEY**

**Secretary**

**Comptroller General  
of the United States**

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